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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/578,816	05/24/2000	Robert C. Yen	RCY1P001	5969
67521 7590 06/07/2007 TECHNOLOGY & INNOVATION LAW GROUP, PC 19200 STEVENS CREEK BLVD. SUITE 240 CUPERTINO, CA 95014			EXAMINER SHINGLES, KRISTIE D	
			ART UNIT 2141	PAPER NUMBER
			MAIL DATE 06/07/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/578,816	<b>Applicant(s)</b> YEN, ROBERT C.	
	<b>Examiner</b> Kristie D. Shingles	<b>Art Unit</b> 2141	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 March 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 5, 11, 12, 15, 17-26 and 28 is/are pending in the application.
- 4a) Of the above claim(s) 1-4 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 5, 11, 12, 15, 17-26 and 28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### **Per Applicant's Request for Continued Examination**

*Claims 1, 3, 4 and 15 have been amended.*

*Claims 6-10, 13, 14, 16 and 27 are canceled.*

### **Per Applicant's Restriction Election**

*Claims 1-4 are non-elected.*

*Claims 5, 11, 12, 15, 17-26 and 28 are pending.*

### **Continued Examination Under 37 CFR 1.114**

I. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9/20/2004 has been entered.

### **Response to Arguments**

II. Applicant's arguments with respect to claims 5, 12, 15, 21, 25 and 28 have been considered but are moot in view of the new ground(s) of rejection.

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### **Restriction Election**

**III.** The Office acknowledges the receipt of Applicant's restriction election filed on 3/30/2007. Applicant elects Group II, claims 5, 11, 12, 15, 17-26 and 28, with traverse. Applicant's traversal is unpersuasive for the following reasons: the claims of Group I include features (such as determining whether to delay responses) not specified in the Group II claims, such that the inventive scope differs between the two groups. Elected Group II claims 5, 11, 12, 15, 17-26 and 28 are pending. Non-elected Group I claims 1-4 are nonelected and therefore will not be examined. This restriction is made FINAL.

### **Claim Rejections - 35 USC § 112**

**IV.** The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

**V.** **Claims 25 and 26** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

a. **Claim 25** recites the limitation "the improvement" in line 2 of the claim. There is insufficient antecedent basis for this limitation in the claim.

b. **Per Claim 26:** the term "normally" is a relative term, which renders the claim indefinite. The term "normally" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Correction is required.

**Claim Rejections - 35 USC § 102**

**VI.** The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**VII.** **Claims 5, 11 and 28** are rejected under 35 U.S.C. 102(e) as being anticipated by *Harris et al* (US 5,878,416).

a. **Per claim 5**, *Harris et al* teach a method for sending data over the Internet, said method comprising:

- receiving a plurality of requests for a particular resource provided at a remote server on the Internet, the plurality of requests being provided by different requestors (*col.5 line 66-col.6 line 11—plural requests*);
- retrieving the particular resource from the remote server once for the plurality of requests to obtain the particular resource requested by the plurality of requests (*col.6 lines 28-65, col.7 lines 4-21—retrieve resource once for requests*); and
- thereafter sending the particular resource to the different requestors (*Figure 4, col.2 lines 30-53*),
- wherein said retrieving and/or said sending are performed after a predetermined quantity of the plurality of requests have been received (*col.11 lines 34-37—sending response after a number of requests*).

b. **Claim 28** contains limitations which are substantially similar to claim 5, and is therefore rejected under the same basis.

c. **Per claim 11**, *Harris et al* teach the method as recited in claim 5, wherein said sending of the particular resource to the different requestors comprises: forming multi-

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destination packets to carry data of the particular resource; and transmitting the multi-destination data packets (*col.2 lines 30-53, col.5 line 45-col.6 line 50, col.7 lines 39-41*).

**VIII. Claims 12, 15 and 17-26 are rejected under 35 U.S.C. 102(e) as being anticipated by *Agrusa et al* (US 7,003,558).**

a. Per claim 12, *Agrusa et al* teach a method for sending data over the Internet, said method comprising:

- receiving a plurality of requests for a particular resource provided at a remote server on the Internet, the plurality of requests being provided by different requestors (*col.3 lines 3-15—plural request for same data*);
- retrieving the particular resource from the remote server once for the plurality of requests to obtain the particular resource requested by the plurality of requests (*col.2 lines 9-14—retrieve data for plural requests*); and
- thereafter sending the particular resource to the different requestors (*col.2 lines 9-14*),
- wherein a data distribution center is coupled to the Internet to assist with the transfer of data (*col.3 lines 3-26, col.4 lines 46-51*), and
- wherein said sending of the particular resource to the different requestors comprises: forming multi-destination data packets to carry data of the particular resource (*col.2 line 66-col.3 line 14*);
- transmitting the multi-destination data packets from the remote server to the data distribution center (*col.3 lines 3-26*);
- converting the multi-destination data packets received at the data distribution center into single destination data packets (*col.2 line 66-col.3 line 14, col.9 lines 23-50*); and
- transmitting the single-destination data packets from the data distribution center to the different requestors, thereby delivering the particular resource requested to the different requestors (*col.2 line 66-col.3 line 14, col.9 lines 23-50*).

b. **Claims 15, 21, 25 and 26** contain limitations that are substantially equivalent to claim 12 and are therefore rejected under the same basis.

c. **Per claim 17**, *Agrusa et al* teach the data transmission system as recited in claim 15, wherein the data network is the Internet (*col.1 lines 24-27*).

d. **Claim 23** is substantially similar to claim 17 and is therefore rejected under the same basis.

e. **Per claim 18**, *Agrusa et al* teach the data transmission system as recited in claim 15, wherein said data distribution centers are utilized between the content servers and the requestors (*col.1 line 67-col.2 line 25, col.3 lines 3-26*).

f. **Per claim 19**, *Agrusa et al* teach the data transmission system as recited in claim 15, wherein data transmissions between said data distribution centers use a multi-destination format (*col.3 lines 3-26, col.9 lines 54-62*).

g. **Per claim 20**, *Agrusa et al* teach the data transmission system as recited in claim 15, wherein data distribution centers service a large number of content servers and only temporarily store data being requested and to be transmitted to the requestors (*col.15 lines 25-28*).

h. **Per claim 22**, *Agrusa et al* teach the system as recited in claim 21, wherein each of the data distribution centers in a geographically different location (*col.2 lines 36-43, col.4 lines 44-51, col.5 line 44-col.6 line 59, col.7 lines 8-65*).

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i. **Per claim 24**, *Agrusa et al* teach the system as recited in claim 21, wherein the multi-destination packets include a plurality of destination locations and data (*col.3 lines 3-26, col.9 lines 23-36*).

j. **Per claim 26**, *Agrusa et al* teach the method as recited in claim 25, wherein the data distribution center does not normally store the data residing on the server but instead obtains the data from the server when needed (*col.6 lines 1-59*).

#### Conclusion

**IX.** The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Daswani et al (6477565), Douglas et al (5652908), Singh (6665704), Huang et al (6466933), Orimo et al (5564120).

**X.** Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kristie Shingles whose telephone number is 571-272-3888. The examiner can normally be reached on Monday-Friday 8:30-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on 571-272-3880. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.




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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

***Kristie Shingles***  
***Examiner***  
***Art Unit 2141***

***kds***

  
**RUPAL DHARIA**  
**SUPERVISORY PATENT EXAMINER**